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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,499	10/13/2000	Christopher C. Winslade	0020	1146
7590 10/16/2008				
Christopher C. Winslade 500 West Madison St. 34th Floor Chicago, IL 60661			EXAMINER RETTA, YEHDEGA	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 10/16/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/687,499

Applicant(s)

WINSLADE ET AL.

Examiner

Yehdega Retta

Art Unit

3622

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This office action is in response to the Request for Continued Examination (RCE) filed 7/28/08. Applicant added new claims 35-39. Claims 34-39 are currently pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 37-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 37-39 recites transaction fee that reduces the promotion amount and is collected from the buyer or the first party. It is unclear how the transaction fee reduces the promotion amount. It is also unclear if an amount is collected from the buyer, which means the buyer is charged some amount of money, and this amount reduces the promotion amount, which means less promotional amount is applied to the purchase price. It is unclear what is considered "transaction fee".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 34-39 are rejected under 35 U.S.C. 102(c) as being anticipated by Meyer et al. (US 6,915,271).

Regarding claim 34, Meyer teaches offering by a second system of a second party (merchants) items for sale at a sales price amount (see fig. 31-35 col. 39 line 55 to col. 41 line 22); providing a portal containing a plurality of promotions wherein a buyer can search for a promotion from the first party associated with the item for sale, the promotion having a promotion amount (fig. 19-34); receiving, by the second system (merchants), online purchase request from a buyer for at least one item (buy now) (see col. 40 line 64 to col. 41 line 40); responding, by the second system, to the online purchase request by collecting from the buyer a purchase amount corresponding to the sales price amount less the promotion amount (see col. 41 line 66 to col. 42 line 25) and electronically communicating, by the second system to the first system, an indication regarding the collection from the buyer of the purchase amount (see col. 40 line 64 to col. 41 line 40, col. 42 line 1-64).

Regarding claim 35, Meyer teaches offering, by a second system of a second party, an item for sale online at a sales price amount (see fig. 33 and 35 also col. 40 line 64 to col. 41 line 40), the item for sale having associated with it a promotion from the first party, the promotion having a promotion amount (see fig. 33 and 35 (\$5 off, Free Beanie Baby with Toy Purchases etc); receiving, by the second system, an online purchase request from a buyer for the item for sale (see col. 40 line 64 to col. 41 line 21 and col. 42 lines 1-36) responding, by the second system, to the online purchase request by collecting from the buyer a purchase amount corresponding to the sales price amount less the promotion amount (see col. 42 lines 1-36);

and causing, by the second system, shipment by the second party of the item for sale to the customer (see col. 41 lines 22-40).

Regarding claim 36, Meyer teaches offering, by a second system of a second party, an item for sale online (see fig. 33 & 35 isavings), wherein the item has been acquired by the second party from the first-party (customer purchasing the items at the second party (promotional site)(see col. 40 line 67 to col. 41 line 2), the item for sale having associated with it a promotion from the first party, the promotion having a promotion amount (see fig. 33 and 35 (\$5 off, Free Beanie Baby with Toy Purchases etc); receiving, by the second system, an online purchase request from a buyer for the item for sale (see col. 40 line 64 to col. 41 line 21 and col. 42 lines 1-36); receiving, by the second system, an online purchase request from a buyer for the item for sale (see col. 40 line 64 to col. 41 line 21 and col. 42 lines 1-36); responding, by the second system, to the online purchase request by collecting from the buyer a purchase amount corresponding to a sales-price amount less the promotion amount (see col. 42 lines 1-36); and collecting, by the second system, a transaction fee associated with the online purchase request (when the "Buy Now" button is pressed the buyer may go to the site on the Web for purchasing the goods or services which may be the same site one is on or at a different Web location corresponding)(see col. 40 line 63 to col. 41 line 20) .

Regarding claims 37-39, Meyer teaches wherein the transaction fee is collected from the buyer (see col. 40 line 63 to col. 41 line 20, col. 42 lines 1-41).

Response to Arguments

Applicant's arguments filed July 28, 2008 have been fully considered but they are not persuasive.

Applicant argues that Meyer does not teach or disclose, at least, offering, by a second system of a second party, an item for sale online at a sales price-amount and providing a portal containing a plurality of-promotions wherein a buyer can search for a promotion from the first party associated with the item for sale, the promotion having a promotion amount. Examiner respectfully disagrees. Meyer teach web site where buyer can buy item from merchants (items offered for sale online at an amount price from for example Target, HOLT, amazon.com etc of fig. 31-35) and providing a portal containing a plurality of promotions wherein buyer can search promotions from first party (from the incentive companies such as website of fig. 33 and 35). Applicants also argues that Meyer's use of a "buy now" option as part of a displayed incentive is different from "offering, by a second system of a second party, an item for sale online at a sales price amount". Examiner would like to point out that once the user clicks on the "Buy Now" button, to purchase the product with the incentive, the user is directed to a web site for purchasing the product from the same site or at a different Web location or corresponding to an offline merchant that does not have a web site (see col. 40 line 63to col. 41 line 21). Applicant further argues that the cited portions of Meyer do not disclose "providing a portal containing a plurality of promotions wherein a buyer can search for a promotion from the first party associated with the item for sale, the promotion having a promotion amount". Examiner again indicates that Figure 31 shows that the buyer can search for promotions

("Available iSavings", "iSaving by category" buttons to search for offers from the web site (Web portal)). Figure 33 shows that the offers can be searched by offers from anyone, by particular merchant or particular category (see also col. 40 line 56-67) the promotions associated with products associated with the products of the specific merchants (products for sale Target such as Mugs, Leather Handbag, Cambridge classic shirts, etc., and from amazon.com such "Joy of Cooking". Applicant asserts to the extent Meyer, *arguendo*, would offer an item for sale at a sales-price amount, that amount would not appear to be known-or seen until after the incentive were located and the "buy now" feature selected. Examiner would like to point out that the claim recites offering an item for sale online at a sales price. As claimed there is no clear indication that the item is offered online nor is it indicated that the price is displayed or is known to the buyer. The claim just recites that a second system offers an item (for sale online at a sales price).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR
/Yehdega Retta/
Primary Examiner, Art Unit 3622